

UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE

DATA CLOUD TECHNOLOGIES, LLC,

Plaintiff,

v.

SQUARESPACE, INC.,

Defendant.

CIVIL ACTION NO. 1:21-cv-00164-LPS

Chief Judge Leonard P. Stark

DECLARATION IN SUPPORT OF
PLAINTIFF'S MOTION FOR LEAVE TO AMEND ITS FIRST AMENDED
COMPLAINT TO CORRECT ERRORS

I, James F. McDonough, III, declare and state that:

1. I am an attorney with Heninger Garrison Davis, LLC and represent Plaintiff DATA CLOUD TECHNOLOGIES, LLC (hereinafter, "DataCloud") in the above-referenced matter.

2. I was responsible for preparing the First Amended Complaint (D.I. 21) filed in this case.

3. During the preparation of DataCloud's First Amended Complaint, I accidentally transposed the words "are" and "do" when drafting the first sentence in Paragraph 24 of that complaint. I first noticed the error after Squarespace filed its Renewed Motion for Judgment on the Pleadings (D.I. 23). Contrary to the language that ended up in the complaint, the the intent of that sentence was not to say that the subject claim limitations/steps are functional. Unfortunately, the error in Paragraph 24 was propagated to the first sentence of Paragraphs 32, 40, 54, 62, 70, and 84. This mistake is unfortunate, and I did not notice it at the time. Based on the remainder of that paragraph, I believe it is clear that this was indeed a mistake. For instance, after the sentence that

includes the error, Paragraph 24 continues by alleging that “[e]ven if any limitation and/or step of the claims is ‘functional’—and none are[,]” which indicates that the order of the words “do” and “are” should have been reversed. *See, e.g.*, D.I. 21, ¶24.

4. The proposed amended/corrected complaint corrects that error in each of the Paragraphs identified above, as follows:

Original: “defined by what they **do** (not what they **are**)”

Corrected: “defined by what they **are** (not what they **do**)”

5. No other substantive edits are proposed, nor does DataCloud seek to add parties or patents in its proposed Second Amended Complaint. A clean and redline version of the Second Amended Complaint is included with the accompanying motion.

Dated: August 11, 2021

Respectfully submitted,

/s/ James F. McDonough, III

James F. McDonough, III (Bar No. 117088, GA)*

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